

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

***Return Date: April 4, 2019***

***Time: 10:00 a.m.***

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In re:

Chapter 13  
Case No.: 19-40250-608

MICHAEL C. GARCIA

Debtor(s)

**NOTICE OF MOTION**

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SIRS / MADAMS:

**PLEASE TAKE NOTICE**, that MICHAEL J. MACCO, Chapter 13 Trustee of the above captioned estate, will move before the Honorable Carla E. Craig, United States Bankruptcy Judge, on the 4th day of APRIL, 2019 at 10:00AM, at the United States Bankruptcy Court located at 271 Cadman Plaza East – Courtroom 3529, Brooklyn, New York 11201, for an Order pursuant to 11 U.S.C. §§521 & 1307(c), dismissing this case, by reason of the debtor(s)' failure to provide and/or file documents, failure to submit pre-confirmation payments, and for such other and further relief as this Court deems just and proper.

**PLEASE TAKE FURTHER NOTICE**, that answering papers, if any, shall be filed with the Court and served on the undersigned no later than seven (7) days prior to the return date of this motion.

Dated: Islandia, New York  
March 14, 2019

Yours, etc.

MICHAEL J. MACCO  
Chapter 13 Trustee  
2950 Express Drive South, Suite 109  
Islandia, NY 11749  
(631) 549-7900

To: *Office of the United States Trustee*  
*MICHAEL C. GARCIA, Debtor(s)*  
*ADRIAN J. JOHNSON, ESQ., Attorney for Debtor(s)*  
*All Interested Parties and Creditors*

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
In re:

**tmm1634**

Chapter 13  
Case No.: 19-40250-608

MICHAEL C. GARCIA

Debtor(s)

**APPLICATION**

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TO THE HONORABLE CARLA E. CRAIG, UNITED STATES BANKRUPTCY JUDGE:

MICHAEL J. MACCO, Chapter 13 Trustee of the above captioned estate, respectfully represents, as follows:

1. The debtor(s) filed a petition under the provisions of 11 U.S.C. Chapter 13 on January 15, 2019, and thereafter MICHAEL J. MACCO was duly appointed and has qualified as Trustee.
2. As of the date of this motion, debtor(s) has failed to provide the Trustee with copies of personal state and federal Tax Returns for 2018; amended Chapter 13 Plan; proof post-petition home maintenance and car payments have been made; motion for Loss Mitigation; copy of the loss Mitigation package submitted to the bank; and the grounds set forth in the Objection to Confirmation must be dealt with in the Plan.
3. In addition, the debtor has failed to submit any pre-confirmation payments to the Trustee.
4. This is a material default and is prejudicial to the rights of the creditors of the debtor.

**WHEREFORE**, the Trustee requests an Order pursuant to the provisions of 11 U.S.C. §§521 & 1307(c), dismissing this case, and for such other and further relief as this Court deems just and proper.

Dated: Islandia, New York  
March 14, 2019

/s/ **Michael J. Macco**  
Michael J. Macco, Chapter 13 Trustee  
2950 Express Drive South, Suite 109  
Islandia, NY 11749  
(631) 549-7900

STATE OF NEW YORK     )  
COUNTY OF SUFFOLK    )     ss.:

STEPHANIE TURNER, being duly sworn deposes and says: deponent is not a party to this action, is over 18 years of age and resides in Suffolk County, New York.

On March 14, 2019 deponent served the within:

**NOTICE OF MOTION AND APPLICATION**

upon the following parties, at the addresses designated by said parties for that purpose, by depositing a true copy of same, enclosed in a post-paid, properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York:

*Michael C. Garcia*  
1570 212 Street, Unit 256  
Bayside, NY 11360-1110  
Debtor(s)

*Capital One Auto Finance*  
Attn: Capital One Auto Finance, a division of Capital One, N.A. Department  
AIS Portfolio Services, LP  
4515 N Santa Fe Ave. Dept. APS  
Oklahoma City, OK 73118

*Sterling National Bank*  
c/o Gross Polowy, LLC  
1775 Wehrle Drive, Suite 100  
Williamsville, NY 14221

*Bay Terrace Cooperative Section III, Inc.*  
c/o HANKIN & MAZEL, PLLC  
60 Cutter Mill Road, Suite 505  
Great Neck, New York 11021

and upon the following parties, by the e-mail address designated by said parties for that purpose;

*Office of the United States Trustee*  
U.S. Federal Office Building  
[USTP.Region02.BR.TFRTDR@usdoj.gov](mailto:USTP.Region02.BR.TFRTDR@usdoj.gov)

*Adrian J. Johnson, Esq.*  
Johnson & Associates LLC  
[ajohnson@johnsonlegalpc.com](mailto:ajohnson@johnsonlegalpc.com)  
Attorney for Debtor(s)

*/s/ Stephanie Turner*  
STEPHANIE TURNER

Sworn to before me this  
14<sup>th</sup> day of MARCH, 2019

*/s/ Janine M. Zarrilli*  
NOTARY PUBLIC  
Janine M. Zarrilli  
Notary Public, State of New York  
No. 01ZA5084708  
Qualified in Nassau County  
Commission Expires September 8, 2021